

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION No. 5604/1994

BETWEEN:

Karibasavegowda,
since deceased and
represented by L.Rs.

1. Smt. Sannamma, Wife of
late Karibasavegowda;
2. Smt. Motamma mother of
deceased Karibasavegowda;
3. K.Mahadegowda,
S/o. late Karibasavegowda;
4. Malleh, s/o. late
Karibasavegowda;
5. Basavaraju, S/o. late
Karibasavegowda,
6. Nagamadaiah, S/o. late
Karibasavegowda;
7. Vishakantha, S/o late
Karibasavegowda;
8. Devamma, D/o. late
Karibasavegowda;

All are majors, residing at
Kemele Village, Satnur Hobli,
Kanakapura Taluk, Bangalore
District.

..PETITIONERS

(By Sri.T.R.Subbanna, Advocate)



AND:

1. The State of Karnataka,
by its Revenue Secretary,
Vidhana Soudha,
Bangalore-1.
2. The Land Tribunal,
Kanakapura Taluk,
Kanakapura, Bangalore Dist.,
by its Chairman.
3. Sri A. Abdul Wazeed, major,
Ex Member, Land Tribunal,
Kanakapura, Bangalore Dist..
4. Sri S.M. Syed Mohammed Sab,
since deceased by L.Rs.
 - a) Syed Fakruddin Pasha,
S/o late S.M. Syed Mohiyuddin,
aged about 48 years;
 - b) Syed Ibrahim, S/o. late
S.M. Syed Mohiyuddin,
aged about 40 years;
 - c) Syed Khasim, S/o. late
S.M. Syed Mohiyuddin,
aged about 36 years;
 - d) Syed Moinnudin, S/o.
late S.M. Syed Mohamood,
aged about 23 years;
 - e) Syed Ameenuddin,
S/o. late S.M. Syed Mohameed,
aged about 21 years;

Respondents 4(a) to (e) are
residing at No.622, IV T.Block,
36th Cross, 22nd Main Road,
Jayanagar, Bangalore-41.

..RESPONDENTS

(By Sri Mohammed Shafuddin for R-4(a) to (e)
Smt. Bharathi Nagesh, AGA for R-1 & 2)

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VPO

This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to treat the appeal ALRA 991/1987 on the file of the Land Reforms Appellate Authority, Bangalore, etc.,

This Writ Petition is coming on for hearing this day, the Court made the following:-

O R D E R

The petitioner's late husband Karibasavegowda was the applicant before the second respondent Tribunal claiming occupancy rights in respect of lands bearing Sy.No.217 measuring 5 acres 17 guntas, Sy.No.218 measuring 6 acres 34 guntas and Sy.No.221 measuring 5 acres 34 guntas situated at Sasalapura village, Kanakapura taluk, Bangalore district, claiming that he has tenant under the 4th respondent. Therefore, he filed Form No.7 before the second respondent Tribunal for grant of occupancy rights in his favour under Section 45 of the Karnataka Land Reforms Act, 1961, contending that he has been cultivating the lands as a tenant immediately before 1.3.1974. Therefore, the lands are tenanted.

2. The order sheet produced by the petitioner at Annexure-E, notice issued to the parties in pursuant to the order dated 13.2.1979 to the

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petitioner and the 4th respondent, it is not recorded that notices were served on them and further an enquiry was not conducted as contemplated under Section 48(A) of the Karnataka Land Reforms Act, 1961 read with Rule 17 of the Karnataka Land Reforms Rules read with Section 34 of the Karnataka Land Revenue Act, 1964. The Tribunal has not given sufficient and adequate opportunity to the applicant to establish his claim. The impugned order is not a speaking order. As it has failed to give valid and cogent reasons in rejecting the application of the applicant. On this ground alone the impugned order is liable to be quashed. The learned counsel for the petitioner submits that the writ petition filed by the petitioner challenging the impugned order by virtue of amendment to the Karnataka Land Reforms Act, the writ petition was transferred to the Additional Land Reforms Appellate Authority, Bangalore Rural District, A.L.R.A.991/87. During pendency of the said appeal before the erstwhile Appellate Authority, two applications I.A.Nos.VII and VIII have been filed. From the order sheet maintained by the erstwhile Land Reforms Appellate Authority, it is noticed that on 8.3.1990 two

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applications were filed under Rule 9(IV) of the Karnataka Land Reforms Appellate Authority Rules, seeking permission of the said appellate authority to adduce additional evidence and to produce documents. The erstwhile Land Reforms Appellate Authority were abolished in pursuant to the amendment to the Act again, this case got transferred to this Court at the instance of the petitioner. This Court has taken the view to the effect that the applications were filed by the parties seeking permission of the said authority to adduce additional evidence, it would be proper for this Court to remit back the case to the Tribunal for fresh consideration of the claim and counter claim of the parties after giving fair and reasonable opportunity to the contesting parties. In this view of the matter also the impugned order is liable to be quashed and the matter has to be remitted back to the Tribunal for fresh consideration.

For the reasons stated supra, the writ petition is allowed. Rule made absolute. The impugned order at Annexure-F in case No. L.R.F.(SA)1/74-75 dated 9.4.1979 is quashed.



The matter is remitted back to the Land Tribunal
the second respondent herein with a direction
to re-consider the case after affording an
opportunity to both the parties and dispose of
the same in accordance with law within six months
from the date of receipt of this order, but no
costs are awarded.

Sd/-
JUDGE



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